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EXAMINER

MORGAN, ROBERT W

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3626

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/834,451	Applicant(s) QUATTROCCHI ET AL.	
	Examiner Robert W. Morgan	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21 and 84-105 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 and 84-105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 7/25/07. Claim 21 and 84-105 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21, 84-95 and 98-105 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,509,064 to Welner in view of U.S. Patent No. 6,222,919 to Hollatz et al.

As per claim 21, Welner teaches a testing system, a method for routing a plurality of incoming inquiries initiated by a plurality of users, said users submitting test specimens for evaluation to a testing facility, each of said users being associated with a personal identification code, said personal identification code being associated with a code database comprising a plurality of codes in which at least one subset of said plurality of codes is associated with a code lot, the method comprising the steps of:

--the claimed receiving an inquiry initiated by one of said users is met by the client-caller (120, Fig. 1) requesting information about test results (see: column 4, lines 66 to column 5, lines 3);

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--the claimed prompting said user to transmit said personal identification code is met by the caller handler and routing system (110, Fig. 1) prompting the client-caller supply a unique PIN (see: column 5, lines 3-8);

--the claimed receiving said personal identification code is met by the caller handler and routing system (110, Fig. 1) receiving the PIN and transmitting to the host computer (150, Fig. 1) (see: column 5, lines 8-10);

--the claimed in any order querying said user as to whether said user desires counseling is met by client-callers placing calls to call handler and routing system (110, Fig. 1) in order to obtain general information or for other reasons are transferred to a customer service representative (CRS) (see: column 4, lines 61-65). The Examiner considers a caller trying to receive general information and then being transferred to a CRS equivalent to a user having a desire to be counseled;

--the claimed routing said inquiry to said counselor is met by a selected caller handler chosen from a plurality of candidate call handlers after the personal identification code is received by the caller handler and routing system (see: column 2, lines 39-51).

Welner teaches that a selected caller handler is chosen from a plurality of candidate call handlers after the personal identification code is received by the caller handler and routing system (see: column 2, lines 39-51). In addition, Welner teaches a host computer system (150, Fig. 1) that includes information such as a list of valid PIN's in the PIN status and result databases (see: column 4, lines 25-50, column 7, lines 3-5).

Welner fails to teach the claimed determining whether said personal identification code input by said user corresponds to a code lot;

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--the claimed from among a plurality of counselors, including at least one counselor associated with said lot, selecting a counselor associated with said lot if said personal identification code is determined to be associated with said lot.

Hollatz et al. teaches a method and automatic call distribution system (100, Fig. 1) that routes calls based information from an external caller such as account number or type of call (see: column 4, lines 12-18). In addition, Hollatz et al. teaches that agents are grouped into skill groups (reads on "code lot") (110a-110n, Fig. 2) based on their respective agent-skill indicator (see: column 5, lines 20-21). Furthermore, Hollatz et al. teaches at step 208, a call-skill indicator representative of a skill deemed useful in satisfying the needs of the external caller is identified and at step 210, the call is routed to the agent in the proper skill group (see: column 6, lines 1-12 and Fig. 2).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include the identification code associated with a code lot and selecting a handler associated with that code lot as taught by Hollatz et al. within the call routing and handling system as taught by Welner et al. with the motivation of improving automatic call distribution and grouping available agents to caller, in a timely fashion according to their specific needs (see: Hollatz et al.: column 1, lines 63-67).

As per claim 84, Welner teaches the claimed step of providing counseling to said user. This limitation is met by client-callers placing calls to call handler and routing system (110, Fig. 1) in order to obtain general information or for other reasons are transferred to a customer service representative (CRS) (see: column 4, lines 61-65). The Examiner considers a caller trying to receive general information and then transferred to a CRS equivalent to a user being counseled.

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As per claim 85, Welner teaches a host computer system (150, Fig. 1) that includes information such as list of valid PIN's in the PIN status and result databases (see: column 4, lines 25-50, column 7, lines 3-5).

Welner fails to explicitly teach database includes a plurality of code lots.

Hollatz et al. teaches a method and automatic call distribution system where agents are grouped into skill groups (110a-110n, Fig. 2) based on their respective agent-skill indicator (see: column 5, lines 20-21). In addition, Hollatz et al. teach a memory device (304, Fig. 3) that stores detected unavailable agents until the unavailable agents become available (see: column 2, lines 54-56).

The motivation for combining the teachings of Hollatz et al. within the system as taught by Welner are discussed in the rejection of claim 21, and incorporated herein.

As per claim 86, Welner teaches that a selected caller handler is chosen from a plurality of candidate call handlers after the personal identification code is received by the caller handler and routing system (see: column 2, lines 39-51).

Welner fails to explicitly teach the claimed at least two of said code lots are exclusive of common codes.

Hollatz et al. teaches a method and automatic call distribution system (100, Fig. 1) that routes calls based information from an external caller such as account number or type of call (see: column 4, lines 12-18). In addition, Hollatz et al. teaches that agents are grouped into skill groups (reads on "code lot") (110a-110n, Fig. 2) based on their respective agent-skill indicator (see: column 5, lines 20-21). Furthermore, Hollatz et al. teaches at step 208, a call-skill indicator representative of a skill deemed useful in satisfying the needs of the external caller is identified

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and at step 210, the call is routed to the agent in the proper skill group (see: column 6, lines 1-12 and Fig. 2).

The motivation for combining the teachings of Hollatz et al. within the system as taught by Welner are discussed in the rejection of claim 21, and incorporated herein.

As per claim 87, Welner teaches that a selected caller handler is chosen from a plurality of candidate call handlers after the personal identification code is received by the caller handler and routing system (see: column 2, lines 39-51).

Welner fails to explicitly teach the claimed at least one code lot, said plurality of counselors includes a plurality of counselors associated with said code lot, said method further including the step of selecting a counselor from among the plurality of counselors associated with said lot.

Hollatz et al. teaches a method and automatic call distribution system (100, Fig. 1) that routes calls based information from an external caller such as account number or type of call (see: column 4, lines 12-18). In addition, Hollatz et al. teaches that agents are grouped into skill groups (reads on "code lot") (110a-110n, Fig. 2) based on their respective agent-skill indicator (see: column 5, lines 20-21). Furthermore, Hollatz et al. teaches at step 208, a call-skill indicator representative of a skill deemed useful in satisfying the needs of the external caller is identified and at step 210, the call is routed to the agent in the proper skill group (see: column 6, lines 1-12 and Fig. 2).

The motivation for combining the teachings of Hollatz et al. within the system as taught by Welner are discussed in the rejection of claim 1, and incorporated herein.

As per claim 88, Welner teaches the claimed said plurality of counselors for said lot includes at least one live counselor and at least one automated counselor. This feature is met by the automated call handler and routing system (110, Fig. 1) that uses recorded message to inform the client (120, Fig. 1) about test result information prior to sending the call to a live-counselor (140, Fig. 1) (see: column 4, lines 4-15). Welner teaches that a selected caller handler is chosen from a plurality of candidate call handlers after the personal identification code is received by the caller handler and routing system (see: column 2, lines 39-51).

As per claim 89, Welner teaches the claimed inquiry is made via electronic communication. This limitation is met by the client-caller (120, Fig. 1) supplying a unique PIN to system (110, Fig. 1) via the touch-tone buttons on the telephone of client-caller (120, Fig. 1) (see: column 5, lines 3-7 and 19-25).

As per claim 90, Welner teaches the claimed counseling is provided to said user via electronic communication. This feature is met when it is determined that a PIN supplied by the client-caller (120, Fig. 1) is not recognized by the host computer (150, Fig. 1) the system (110, Fig. 1) automatically transfer the call to a customer service representatives (140, Fig. 1) (see: column 5, lines 9-19).

As per claim 91, Welner teaches the claimed wherein some of the codes in said database are not associated with a lot, said plurality of counselors including at least one non-lot-specific counselor. This feature is met when it is determined that a PIN supplied by the client-caller (120, Fig. 1) is not recognized by the host computer (150, Fig. 1) the system (110, Fig. 1) automatically transfer the call to a customer service representatives (140, Fig. 1) (see: column 5, lines 9-19).

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As per claim 92, Welner teaches the claimed said plurality of counselors including a plurality of non-lot-specific counselors, the method including the step of selecting one of said non-lot-specific counselors if it is determined that said personal identification code input by said user is not associated with a lot. This feature is met when it is determined that a PIN supplied by the client-caller (120, Fig. 1) is not recognized by the host computer (150, Fig. 1) the system (110, Fig. 1) automatically transfer the call to a customer service representatives (140, Fig. 1) (see: column 5, lines 9-19 and Fig. 1).

As per claim 93, Welner teaches that a selected caller handler is chosen from a plurality of candidate call handlers after the personal identification code is received by the caller handler and routing system (see: column 2, lines 39-51).

Welner fails to explicitly teach the claimed code database comprises a plurality of code lots, wherein at least one of said plurality of counselors is associated with plural code lots.

Hollatz et al. teaches a method and automatic call distribution system (100, Fig. 1) that routes calls based information from an external caller such as account number or type of call (see: column 4, lines 12-18). In addition, Hollatz et al. teaches that agents are grouped into skill groups (reads on "code lot") (110a-110n, Fig. 2) based on their respective agent-skill indicator (see: column 5, lines 20-21). Furthermore, Hollatz et al. teaches at step 208, a call-skill indicator representative of a skill deemed useful in satisfying the needs of the external caller is identified and at step 210, the call is routed to the agent in the proper skill group (see: column 6, lines 1-12 and Fig. 2).

The motivation for combining the teachings of Hollatz et al. within the system as taught by Welner are discussed in the rejection of claim 1, and incorporated herein.

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As per claim 94, Welner teaches the claimed wherein said specimen is a medical specimen and said evaluation is a medical evaluation. This limitation is met by the client (120, Fig. 1) providing a specimen of blood using a test-kit to the testing laboratory (130, Fig. 1) (see: column 3, lines 7-13).

As per claim 95, Welner teaches the claimed wherein said evaluation is an evaluation for HIV. This limitation is met by the client (120, Fig. 1) providing a specimen of blood using an HIV test-kit to the testing laboratory (130, Fig. 1) (see: column 3, lines 7-13).

As per claim 98, Welner teaches the claimed said plurality of one common counselor provided with code lot, wherein said step of selecting a counselor comprises selecting instructions for said common counselor counselors comprises at least instructions associated with said counselor comprises selecting instructions for said common counselor. This limitation is met by a selected caller handler being chosen from a plurality of candidate call handlers after the personal identification code is received by the caller handler and routing system (see: column 2, lines 39-51). In addition, Welner teaches in the event that a caller-client (120, Fig. 1) requests help at step 230 the system (110, Fig. 1) transfers the call to CSR for further handling (see: column 8, lines 7-11). Furthermore, Welner teaches at step 230, that once the caller-client (120, Fig. 1) indicates to the CSR that help is needed the call is further processed at step 240 (see: column 8, lines 16-21). This suggests that the CSR transfers the call according to proper protocol or instructions to the next step for further processing.

As per claim 99, Welner teaches the claimed inquiry is received prior to submission of a test specimen This feature is met by the automated call handler and routing system (110, Fig. 1)

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that uses recorded message to inform the client (120, Fig. 1) about test result information prior to sending the call to a live-counselor (140, Fig. 1) (see: column 4, lines 4-15)..

As per claim 100, Welner teaches the claimed wherein said inquiry is received prior to providing test result information to the user. This feature is met by the automated call handler and routing system (110, Fig. 1) that uses recorded message to inform the client (120, Fig. 1) about test result information prior to sending the call to a live-counselor (140, Fig. 1) (see: column 4, lines 4-15).

As per claim 101, Welner teaches the claimed wherein user is queried as to whether said user desires counseling after said user has received test result information. This limitation is met at step 266, where after a recorded message stating the test result information the caller is given the opportunity to chose from a list of recorded topics or to speak further with a live counselor (see: column 9, lines 55-60).

As per claim 102, Welner teaches the claimed said user is anonymously identified by one of said personal identification codes. This limitation is met by system (100, Fig. 1) that retrieves and provides test results to each individual client (120, Fig. 1) based only on a unique personal identification number associated with the client's at-home test kit (see: column 3, lines 11-15).

As per claim 103, Welner teaches the claimed wherein said personal identification code is associated with the test specimen submitted by said user. This limitation is met by system (100, Fig. 1) that retrieves and provides test results to each individual client (120, Fig. 1) based only a unique personal identification number associated with the client's at-home test kit (see: column 3, lines 11-15).

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As per claim 104, Welner teaches the claimed user has a different personal identification code that is associated with user-identifying information. This limitation is met by the identity (e.g. name, address, telephone number) of each client (120, Fig. 1) (see: column 3, lines 17-22). The Examiner considers a telephone number to be at least a different identification code associated with the user name and address or user-identifying information.

As per claim 105, Welner teaches the claimed personal identification code is not associated with user-identifying information. This limitation is met by each test card purchased by a client (120, Fig. 1) has a unique multi-digit personal identification number (PIN) pre-printed on the card (see: column 3, lines 30-32).

4. Claims 96-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,5092,064 to Welner in view of U.S. Patent No. 6,222,919 to Hollatz et al. as applied to claims 21 and 94 above, and further in view of U.S. Patent No. 5,890,492 to Elmatch.

As per claims 96-97, Welner and Hollatz et al. teach the client (120, Fig. 1) providing a specimen of blood using a test-kit to the testing laboratory (130, Fig. 1) (see: Welner: column 3, lines 7-13).

Welner and Hollatz et al. fail to explicitly teach the claimed evaluation is an evaluation for hepatitis and environmental evaluation and specimen is an environmental specimen.

Elmatch teaches a method of controlling the spread of HIV/AIDS and other infectious diseases that includes a testing process that includes blood tests or other specific tests which identify diseases such as HIV/AIDS, syphilis, gonorrhea, chlamydia, herpes, hepatitis and the like (see: column 2, lines 19-23).

Therefore, it would have been obvious to a person of ordinary skill in art at the time the invention was made to include evaluation for hepatitis and environmental as well as the specimen is an environmental specimen as taught by Elmatch with the system of Welner and Hollatz et al. with the motivation of preventing the spread of infectious disease by providing an easily-accessible information database which provides status information to individuals who participate thereby minimizing the risk of becoming infected (see: Elmalch: column 1, lines 50-55).

Response to Arguments

6. Applicant's arguments filed 7/25/07 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response 7/25/07.

(A) In the remarks, Applicants argue in substance that, (1) To establish a *prima facie* case of obviousness three basic criteria must be met (a) there must be some suggestion or motivation to combine or modify the references, (b) there must be a reasonable expectation of success, and (c) the prior art must teach or suggest each and every limitation of the claimed invention; (2) Welner does not query users as to their desire for counseling; (3) The Hollatz skill groups are not code lots; (4) The code database code lots is unrelated to Hollatz; (5) No reference to common codes is made; (6) The Welner routing system is not a counselor; (7) Non-Lot-Specific counselors are absent from the Examiner's analysis; (8) No common counselor is disclosed in Welner; and (9) Environmental testing is not shown.

(B) In response to Applicant's argument that, (1) To establish a *prima facie* case of obviousness three basic criteria must be met (a) there must be some suggestion or motivation to

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combine or modify the references, (b) there must be a reasonable expectation of success, and (c) the prior art must teach or suggest each and every limitation of the claimed invention. The Examiner respectfully submits that obviousness is determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Hedges*, 783 F.2d 1038, 1039, 228 USPQ 685,686 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785,788 (Fed. Cir. 1984); and *In re Rinehart*, 531 F.2d 1048, 1052, 189 USPQ 143,147 (CCPA 1976). Using this standard, the Examiner respectfully submits that he has at least satisfied the burden of presenting a *prima facie* case of obviousness, since he has presented evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention (see: paper dated 4/25/07).

As such, the Examiner recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the proposed modifications. However, although the Examiner agrees that the motivation or suggestion to make modifications must be articulated, it is respectfully contended that there is no requirement that the motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969).

The Examiner is concerned that Applicant apparently ignores the mandate of the numerous court decisions supporting the position given above. The issue of obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re DeLisle* 406 Fed 1326, 160

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USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

Further, according to *In re Jacoby*, 135 USPQ 317 (CCPA 1962), the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied references. In *In re Bode*, 193 USPQ 12 (CCPA 1977), every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein.

According to *Ex parte Berins*, 168 USPQ 374 (Bd. Appeals), there is no statutory limitation as to the number of references that may be used to demonstrate obviousness...not what references expressly state but what they would reasonably suggest to one of ordinary skill in the art. In *In re Conrad*, 169 USPQ 170 (CCPA), obviousness is not based on express suggestion, but what references taken collectively would suggest.

As such, it is respectfully submitted that an explanation based on logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner both in the prior Office Action, *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter., 4/22/93).

(C) In response to Applicant's argument that, (2) Welner does no query users as to their desire for counseling and (6) The Welner routing system is not a counselor. The Examiner respectfully submits that Welner teaches a client-caller placing calls to call handler and routing

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system (110, Fig. 1) in order to obtain general information or for other reasons are transferred to a customer service representative (CRS) (see: column 4, lines 61-65). This suggests that a caller trying to receive general information is then transferred to a CRS and is queried by the CRS as to whether any other information needs to be obtain (counseling). Furthermore, the claim language merely recites, “in any order querying said user as to whether said user desires counseling” therefore Welner’s transferring a caller to a CRS to obtain general information is a form of counseling since the user may decline to receive the general information and thereby meets the claim limitation.

(D) In response to Applicant’s argument that, (3) The Hollatz skill groups are not code lots. The Examiner respectfully submit Hollatz reference teaches a method and automatic call distribution system (100, Fig. 1) that routes calls based information from an external caller such as account number (reads on “personal identification code”) or type of call (see: column 4, lines 12-18). In addition, Hollatz et al. teaches that agents (reads on “plurality of counselors”) are grouped into skill groups (reads on “code lot”) (110a-110n, Fig. 2) based on their respective agent-skill indicator (see: column 5, lines 20-21). Additionally, Hollatz et al. teaches at step 208, a call-skill indicator representative of a skill deemed useful in satisfying the needs of the external caller is identified and at step 210, the call is routed to the agent in the proper skill group (see: column 6, lines 1-12 and Fig. 2). This clearly shows that calls are routed according to the caller’s account number or personal identification code to the proper agent of a particular skill group and each agent or counselor is grouped according to skill level. Furthermore, the reference of Hollatz does explicitly recite that skill groups are code lots and the cited reference(s) was never applied as a reference under 35 U.S.C. 102 against the pending claims. As such, the Examiner

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respectfully submits that the issue at hand is not whether the applied prior art specifically teaches the claimed features, *per se*, but rather, whether or not the prior art, when taken in combination with the knowledge of average skill in the art, would put the artisan in possession of these features. Moreover, the courts have held that even if a patent does not specifically disclose a particular element, said element being within the knowledge of a skilled artisan, the patent taken in combination with that knowledge, would put the artisan in possession of the claimed invention. *In re Graves*, 36 USPQ 2d 1697 (Fed. Cir. 1995).

(E) In response to Applicant's argument that, (4) The code database code lots is unrelated to Hollatz and (5) No reference to common codes is made. The Examiner respectfully submits that the Hollatz reference, and not Welner, *per se*, that was relied upon for the specific teaching of a method and automatic call distribution system where agents are grouped into skill groups (110a-110n, Fig. 2) based on their respective agent-skill indicator (see: column 5, lines 20-21). In addition, Hollatz et al. teach a memory device (304, Fig. 3) that stores detected unavailable agents until the unavailable agents become available (see: column 2, lines 54-56). Welner was relied on for primarily teaching of a host computer system (150, Fig. 1) that includes information such as list of valid PIN's in the PIN status and result databases (see: column 4, lines 25-50, column 7, lines 3-5). In addition, Welner teaches that a selected caller handler is chosen from a plurality of candidate call handlers after the personal identification code is received by the caller handler and routing system (see: column 2, lines 39-51). Thus, the proper combination of the applied references would be the incorporation of Hollatz's system of identification code associated with a code lot and selecting a handler associated with that code lot within the system of the call routing and handling Welner.

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(F) In response to Applicant's argument that, (7) Non-Lot-Specific counselors are absent from the Examiner's analysis and (8) No common counselor is disclosed in Welner. The Examiner respectfully submits that Welner teaches that when it is determined that a PIN supplied by the client-caller (120, Fig. 1) is not recognized by the host computer (150, Fig. 1) the system (110, Fig. 1) automatically transfer the call to a customer service representatives (140, Fig. 1) (see: column 5, lines 9-19). This suggests that when a user's PIN is not associated with that user or recognized by the system, the user is transferred to a customer service representative or Non-Lot-Specific counselors.

(G) In response to Applicant's argument that, (9) Environmental testing is not shown. The Examiner respectfully submits the Elmatch reference teaches a method of controlling the spread of HIV/AIDS and other infectious diseases that includes a testing process that includes blood tests or other specific tests which identify diseases such as HIV/AIDS, syphilis, gonorrhea, chlamydia, herpes, hepatitis and the like (see: column 2, lines 19-23). This suggests that other testing of the like such as environmental could be used and it should be noted that the cited reference(s) was never applied as a reference under 35 U.S.C. 102 against the pending claims. As such, the Examiner respectfully submits that the issue at hand is not whether the applied prior art specifically teaches the claimed features, *per se*, but rather, whether or not the prior art, when taken in combination with the knowledge of average skill in the art, would put the artisan in possession of these features. Moreover, the courts have held that even if a patent does not specifically disclose a particular element, said element being within the knowledge of a skilled artisan, the patent taken in combination with that knowledge, would put the artisan in possession of the claimed invention. *In re Graves*, 36 USPQ 2d 1697 (Fed. Cir. 1995).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

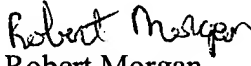
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Robert Morgan
Primary Examiner
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